

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.15575 of 2002

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, came to be filed seeking to call for the records pertaining to Proc.No.B7/2888/97 dated 04.12.1998 of the 1st respondent and G.O.Ms.No.78, Social Welfare (CV.2) Department, dated 22.07.2002 and quash the same by holding and declaring that the petitioner, who belongs to Lambada Caste, is entitled to be treated as a Schedule Tribe.

The averments of the affidavit filed in support of the writ petition are as follows:

The petitioner was born in Gond Jawli Village, Kinwat Taluq of Maharashtra State. After the death of his father, the petitioner was brought to Narayanpur Village, Boath Mandal, Adilabad District, by way of "Illutam" in the year 1975, by his maternal uncle and gave his daughter Smt.Meroni Bai in marriage to the petitioner. The petitioner as well as his parents, wife and maternal uncle all belong to Schedule Tribe Lambada community. On 13.09.1978, the Mandal Revenue Officer, Boath, issued a caste certificate in favour of the petitioner stating that the petitioner belongs to Lambada Caste. Later, the petitioner got enrolled his name in the Employment Exchange. Subsequently, he was appointed as Salesman by the Divisional Manager, Girijan Co-operative Corporation Ltd., Adilabad, on 07.03.1981 and since then the petitioner has been working therein. Basing on the complaint given by Girijana Lambada Brundam, on 30.07.1989, the Enquiry Committee and Joint Collector, sent a notice to the

petitioner on 29.08.1998 asking him to appear before the Scrutiny Committee on 14.09.1998. Accordingly, the petitioner appeared before the Enquiry Committee and submitted his explanation narrating all the facts. The Scrutiny Committee opined that the petitioner is a resident of Maharashtra State and that he cannot accrue any right to claim as schedule tribe and he cannot claim any right as a resident of Andhra Pradesh. Basing on the same, the District Collector vide Proceedings No.B7/2888/97 dt.04.12.1998 cancelled the caste certificate issued to the petitioner. Challenging the same, petitioner filed an appeal before the Government on 30.01.1999. In said appeal, initially the Government granted stay on 17.05.1999 and finally issued G.O.Ms.No.78, Social Welfare Department, dated 22.07.2002 rejecting the appeal. Thus, the petitioner filed this Writ Petition seeking to call for the records in Proc.No.B7/2888/97 dated 04.12.1998 of the District Collector as well as G.O.Ms.No.78 dated 22.07.2002 and quash the same.

On 22.08.2002 while admitting the Writ Petition, this Court granted interim suspension of the impugned proceedings.

On behalf of the respondents, a counter came to be filed by the first respondent denying the allegations made in the affidavit filed in support of the writ petition. It is averred that Girijana Lambada Brundam filed a representation, stating that the petitioner herein obtained a bogus Lambada ST Caste certificate from the Mandal Revenue Officer, Boath. As such, the matter was referred to Scrutiny Committee for enquiry. The Scrutiny Committee, after issuing due notice to the petitioner, conducted an enquiry and found that the petitioner migrated from Goudjawli

Village, Kinwat Taluq of Maharashtra State and concluded that for all purposes, the petitioner is a resident of Maharashtra State where the Lamabada people are not declared as STs. Basing on the same, the District Collector, Adilabad, cancelled the caste certificate of the petitioner vide impugned proceedings. Further, the appeal preferred by the petitioner was also rejected by the Government vide order dated 22.07.2002. It is further contended that merely because the petitioner married a person belonging to Andhra Pradesh and was taken as illutam son-in-law, he cannot be treated as S.T. Thus, finally, it is prayed to vacate the interim order dated 22.08.2002 and also to dismiss the writ petition.

Heard Sri P.Vidya Sagar, learned senior counsel, for petitioner and the learned Government Pleader for Social Welfare for respondents.

The only point raised by Sri P.Vidya Sagar, learned senior counsel, is that without furnishing a copy of the Scrutiny Committee report, the District Collector has passed an order cancelling the caste certificate. According to him, the procedure adopted by the respondents, in the instant case, is totally contrary to the ratio laid down by this Court in ***Jadav Rekoba and others v. Government of Andhra Pradesh and others***¹.

Per contra, the learned Government Pleader would submit that since the notice was issued to the petitioner at the time of conducting enquiry, he cannot have any grievance over the order passed by the District Collector.

¹ 2009 (2) ALD 296

In order to appreciate the rival arguments, it would be suffice to refer to the ratio laid down by this Court in **Jadhav Rekoba's case** (referred supra), wherein it has been held that when the report of the Scrutiny Committee is the basis for cancellation of a Community Certificate, such report has to be furnished by the District Collector, before passing an order under Section 5 of the Act.

In the instant case also, the order of cancellation passed by the District Collector is based on the report of the Scrutiny Committee, a copy of which was not furnished to the petitioner. Therefore, the cancellation of the caste certificate is improper in view of the ratio laid down by this Court in **Jadhav Rekoba's case** (referred supra).

Having regard to the above, the order passed by the District Collector dated 04.12.1998 vide Proceedings No.B7/2888/97 is hereby set aside and the matter is remitted back to the first respondent for passing orders afresh. Further, the District Collector shall furnish a copy of the report of the Scrutiny Committee to the petitioner, afford him an opportunity of presenting his case and then pass orders, in accordance with law.

Accordingly, the Writ Petition is allowed. No costs.

Consequently, miscellaneous petitions pending in this writ petition, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

10.08.2017
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